

**ASSEMBLY BILL**

**No. 2068**

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**Introduced by Assembly Member Hill**

February 18, 2010

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An act to amend Section 1203.4a of the Penal Code, relating to expungement standards.

LEGISLATIVE COUNSEL'S DIGEST

AB 2068, as introduced, Hill. Expungement standards.

Existing law, subject to exceptions, provides that every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty, or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and in either case the court shall thereupon dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, as specified.

This bill would also authorize the court to afford a defendant that relief, if the court, in its discretion and in the interests of justice, determines that the defendant should be granted the relief available under those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1203.4a of the Penal Code is amended  
2 to read:

3 1203.4a. (a) Every defendant convicted of a misdemeanor and  
4 not granted probation shall, at any time after the lapse of one year  
5 from the date of pronouncement of judgment, if he or she has fully  
6 complied with and performed the sentence of the court, is not then  
7 serving a sentence for any offense and is not under charge of  
8 commission of any crime and has, since the pronouncement of  
9 judgment, lived an honest and upright life and has conformed to  
10 and obeyed the laws of the land, *or a court, in its discretion and*  
11 *the interests of justice, determines that a defendant should be*  
12 *granted the relief available under this section*, be permitted by the  
13 court to withdraw his or her plea of guilty or nolo contendere and  
14 enter a plea of not guilty; or if he or she has been convicted after  
15 a plea of not guilty, the court shall set aside the verdict of guilty;  
16 and in either case the court shall thereupon dismiss the accusatory  
17 pleading against the defendant, who shall thereafter be released  
18 from all penalties and disabilities resulting from the offense of  
19 which he or she has been convicted, except as provided in Section  
20 12021.1 of this code or Section 13555 of the Vehicle Code. The  
21 defendant shall be informed of the provisions of this section, either  
22 orally or in writing, at the time he or she is sentenced. The  
23 defendant may make an application and change of plea in person  
24 or by attorney, or by the probation officer authorized in writing;  
25 provided, that in any subsequent prosecution of the defendant for  
26 any other offense, the prior conviction may be pleaded and proved  
27 and shall have the same effect as if relief had not been granted  
28 pursuant to this section.

29 This subdivision applies to convictions which occurred before  
30 as well as those occurring after, the effective date of this section.

31 (b) Subdivision (a) does not apply to any misdemeanor falling  
32 within the provisions of subdivision (b) of Section 42001 of the  
33 Vehicle Code, or to any infraction.

34 (c) A person who petitions for a dismissal of a charge under  
35 this section may be required to reimburse the county and the court

1 for the cost of services rendered at a rate to be determined by the  
2 county board of supervisors for the county and by the court for the  
3 court, not to exceed sixty dollars (\$60), and to reimburse any city  
4 for the cost of services rendered at a rate to be determined by the  
5 city council not to exceed sixty dollars (\$60). Ability to make this  
6 reimbursement shall be determined by the court using the standards  
7 set forth in paragraph (2) of subdivision (g) of Section 987.8 and  
8 shall not be a prerequisite to a person's eligibility under this  
9 section. The court may order reimbursement in any case in which  
10 the petitioner appears to have the ability to pay, without undue  
11 hardship, all or any portion of the cost for services established  
12 pursuant to this subdivision.

13 (d) Any determination of amount made by a court under this  
14 section shall be valid only if either (1) made under procedures  
15 adopted by the Judicial Council or (2) approved by the Judicial  
16 Council.